

**Public Hearing Meeting Minutes – March 4, 2010, 7:00 p.m.
Bowman City Hall – Bowman, North Dakota
Proposed Petrocomp Special Waste Management Facility**

**By the
North Dakota Department of Health (NDDoH)
Division of Waste Management**

Introduction: I am Scott Radig, the director of the ND Department of Health, Division of Waste Management, and I will be acting as hearing officer for this public hearing. It is now 7:10 p.m., on March 4, 2010, in the City Hall of Bowman, ND. I will begin with a short opening statement explaining the hearing format and will then open for comments.

This public hearing has been called for the purpose of allowing all interested individuals an opportunity to submit information and comments concerning the proposed Petrocomp Solid Waste Permit, pursuant to North Dakota Century Code, Chapter 23-29, Solid Waste Management and Land Protection Act and North Dakota Administrative Code, Article 33-20, Solid Waste Management Rules.

A list of the documents and resources used by the Department to make a preliminary determination to write a draft permit is available at the information table in the back. Information gathered at this hearing will be used by the North Dakota Department of Health for its deliberation and final decision. This hearing is being conducted according to the Health Department's procedures for hearings on proposed permits. This is not an adjudicative proceeding under NDCC Chapter 28-32, which means that people providing comment will not be cross examined, and the Department will not be responding to comments at this hearing. The comments received today will be considered with all written comments that are received, and the Division (of Waste Management) will present its consideration of all the comments in writing. You may request a copy of the written consideration of comments and one will be provided to you. After considering all of the comments, the Division of Waste Management will make a recommendation on the draft permit; either to approve as proposed, approve with modifications based on comments received, or to deny the permit. The recommendation will be submitted to the Chief of the Environmental Health Section, who will review the record, verify that state law has been followed, and he will make the final decision.

Everyone present will be given an opportunity to speak. This hearing is being taped and we ask everyone to use the microphone so that the tape will be of good quality for transcribing purposes. Please identify yourself for the record before you begin with your comments and sign the registration sheet, which is placed at the podium (microphone). If you have a prepared statement, a written copy of your statement is appreciated and will be helpful. In order to save time, if someone has previously made the same comments you were planning to make, it is not necessary or advantageous to state them again into the record. If you have lengthy written comments or information to present, please summarize what is being submitted and the written information will be fully reviewed, considered, and responded to.

I'd like to remind you that comments related to zoning issues and those decisions are outside of

the authority of the Health Department and are not within the scope of this hearing, and cannot be addressed by the Department.

So at this point the hearing is open for all comments on the draft permit. Feel free to come forward and make your comments

Speaker Pam Hestekin: (Marmarth) Before I give my short comments, I would like to let everybody know that the facility location marked on this map is not correct. The true facility location is further south in Section 8, bordered by government land. I have prepared a written statement, but I guarantee it is short. I would like to thank you for letting me voice our opposition to the oil waste composting site south of Marmarth. My husband, Don and I, live in this Township in Section 26, three and one-half miles southeast of the proposed site. I have done a lot of research since this process began three years ago, and don't like at all what I found. We have read the draft of the permit and also the permit application review. We feel there are a lot of vague issues with this operation.

One of our concerns is the radioactive content and lead content in the waste that will be trucked to this site. We keep hearing how safe it is; but how much of it will become airborne? No matter what, some will.

We are also concerned about the water. This site is on a hill between two drainage ways into the Little Missouri River. We want to know where is the guarantee to keep our scenic river from becoming contaminated. The wells in this area are shallow or spring fed, and the previous operation in Baker had contamination as deep as 900 feet. So, I ask you, on a gumbo hill with fractures, how can he protect these water sources?

Our feelings are, if Montana doesn't want it, why would North Dakota open their arms and welcome this operation? I never thought I would ever use the phrase, "Not in my back yard," but at this time we feel it is an appropriate one to use. Thank you very much. (END)

Speaker Scott Radig: Anyone else? Everybody can have a chance to speak.

Speaker Don Sonsalla: I'm Donnie Sonsalla from Marmarth ND and I have land in south Marmarth near, next to this. I guess the only thing I've got to say is when this first came up to put it in North Dakota, I made a special trip over to look at the operation in Baker, and I've never seen such a filthy disgusting mess. Oil ran over everything, tanks that were rusted through, leaking all over the country, dikes built up catching the runoff, and I honestly believe that anybody that actually looked at the operation they ran in Baker, would never allow this company to ever do it. And myself, I'm not against it, I worked in oil fields all my life. Something has to be done with this and as Pam said, not in my back yard, that's a common feeling. We're producing this waste here, something has to be done with it, but D&M is not the company that we want to do it. Anybody that's seen the mess they left in Baker would never even consider them. That's all I've got to say. (END)

Speaker Scott Radig: Thank you.

Speaker Don Rieger: (Baker MT) For the record my name is Donny Rieger. I happen to be a county commissioner over at Baker. I served as county commissioner when this started over there and I'm presently serving as county commissioner. A lot of you people know what the situation was over there but many of you don't and I want to do a little clarification on that.

We had a landfill operation that we attempted to put in east of Baker and thought we had appropriate soils for that, we thought there was a need for it. And so we went to our state legislature and legislative-wise we got the permits to go ahead and do that. When we put that facility into place, we thought we'd try to expand that to the biggest or the greatest effort that we could. Dale approached us with this idea. There had never been any of this done in the state of Montana. Our meetings with the DEQ (Department of Environmental Quality)—that's who we deal with over in Montana—they had never witnessed this either. So there were three entities that really went all into this, all very, very green in the process. Did we learn from any of it? Yes we did. And we could do it all over again; I think everybody would make a more concerted effort to do things differently. But it was a learning process, and as we approached that and went on with that, things were working out and things could be better...we acknowledge that. But as it turned out in the end, things weren't so good. We were partly part to fault, Dale was at fault, DEQ had changed personnel, things weren't the same there, the original people first there we were dealing with when this started permitting that area were different when we ended. So as I said when we went into this definitely blind, we learned as we went. But I can honestly say we felt at the time there was a need for such a thing. We still feel there's a need for such a thing; however, the DEQ that we dealt with came down and the end results they threatened to close down the entire landfill site because the operation was run under our operating license of a landfill. We could not jeopardize that. So therefore, we had to act on behalf of the landfill, and in doing so, we were forced into ceasing our operation with Dale.

Then it came about to the closure part of it. We had engineers out of Helena that worked closely with us, and whether they gave us a one-time operation to try to do what we could to cease the operation, I can't even get into that. But nevertheless, we made an effort, we went in there and Mr. Griffith brought his equipment in there and we did what we thought was best and what directions we had from DEQ. The end result was we were able to reclaim that property up afterward and to our knowledge, I think earlier testimony said there was contamination amount of feet underground, that's totally beyond our knowledge. But what we did was close it up and seeded the area, we still got control of the area and we probably will for a long, long time. But honestly, like I said, we were very much in favor of this when we went into it and we do still believe there is a need for it today. I have no knowledge of the land location that he's got now or anything of that nature. All I'm speaking is actually on behalf of the county and the knowledge that we dealt with and the people that we dealt with. And from that I would say I would be glad to answer any questions, but we dealt with the elements as they progressed during our time period there and we all could have done a much better job. Thank you. (END)

Theresa Brewer: (*from audience*) I do have a question. What is going on with the closing of that landfill now ... (*unclear words*).

Speaker Don Rieger: That falls under our license and we have a responsibility just like we do our regular landfill. There's post-closure, we've got money set aside to act on that behalf. And

every year we make a payment into an account that sits out there for closure. They've been back, the grass is growing, and we haven't heard anything more from them. Does that pretty much answer your question? Okay.

Theresa Brewer: *(from audience, could not hear question)*

Speaker Don Rieger: When we entered the agreement with Mr. Leivestad when we first started, we thought we could make it a profitable operation out there because we were going to take this waste product and package it...

Theresa Brewer: *(from audience)* What was your cost?

Speaker Don Rieger: I can't give you the exact dollar but there were a lot of dollars until we got to the final stages of it. I'd say probably two-three hundred thousand.

Theresa Brewer: *(from audience, could not hear question)*

Speaker Don Rieger: The area we would deal with over the landfill over Baker, Montana...there's a *(audience interruption by another individual, unclear comments)*

Unidentified speaker: *(from audience, unclear question)*

Speaker Scott Radig: Excuse me. If you need to make comments you need to come up to the microphone to make comments.

Speaker Don Rieger: Thank you. We have monitoring wells that were drilled prior to any garbage exposed there or anything of that nature and they're monitored...

Unidentified individuals from audience continued asking questions: *(Could not hear questions)*

Speaker Scott Radig: You must come up to the microphone - this is not a question/answer session.

Speaker Don Rieger: But we were allowed by DEQ of Montana for the type of soil we had, it was documented there was no ground water for at least for over 10,000 feet. In having that knowledge along with the DEQ, is why we have a landfill there that we don't have to line. We have plenty of room and taking garbage from at least 13 communities. We're proud of our landfill and think we run a pretty good landfill and as I said we're trying to do the best we can in helping our neighboring communities. Thank you. (END)

Speaker Scott Radig: If you'd like to make your comments, you may do so. (END)

Speaker Theresa Brewer: I'm Teresa Brewer from Marmarth and most everybody knows me. I know Mr. Leivestad, you know if it were anybody but him, it might be awkward and it might be good but there's a lot of baggage about this that deals with him...but not the issue. The issue is

good...him it's not. That's the way a lot of us feel. I don't feel that Bowman County knows the Baker cleanup...they just dug and buried it. This all gets into the river as runoff, that's going to cost Bowman County plenty millions. And who wants to pay for that? I don't. (END)

Speaker Trever Steeke: I think that a lot of people here for the previous meeting, the informational meeting at 4:00, a lot of this was covered by the Health Department and all their experts. They said they were going to have a liner in there, and they were going to cover it, there's enough water, I believe if I remember right, there's a 100-year rain for 24-hours that it'll cover, so everything is going to be covered. I think you have to look at the whole situation and some people are having a personal grudge against Dale, and I am in favor of this, I've had land that's been contaminated by oil...what did they do with it? They could either take it to Belle Fourche or Williston and rejected it there, so they just buried it. I would rather have it go through a system like this personally, than just buried in your lands. What happens when the liner breaks in your land? We have within a quarter mile of a water well, we have a liner, a pit buried on our land and what happens with that? I'd rather see it go and get back to soil, back to original state, than have it just buried on your lands. We have land within a couple miles of this, we have the school land section we lease within a mile. There's not much down there except badlands, not far from the Little Missouri, and they're not taking in liquids, only solids. This was stated in previous meetings...they are not taking in liquids people; they're just taking in solids. Am I right on that?

It's going to bring in five jobs they're talking about. Again, there's a lot of misinformation about this and I think if somebody can talk about some of the things to wrap up the ideas that were talked about at the last meeting to clarify the misinformation going around. Some are coming in with preconceived notions already saying how bad this is and haven't listened to the whole idea. We have to talk about what is best for the future; we're not going to talk about what's in the past. Dale said he would take responsibility, but there are other stories to that. Everything is covered and experts agreed. A 100-year rain in south Marmarth...there's not a lot of rain down there and it'll all be taken care of with pits and liners, so if someone could give a brief synopsis or review at this meeting to inform the people.

Speaker Scott Radig: If someone would like to present (*for Petrocomp*), they can, but not obligated to. We had the public information meeting earlier. I would like to point out we are not going to get into a back and forth question/answer debate. This is not the purpose of this hearing

Speaker Bill Delmore: (*missed some comments here...speaker stood away from microphone*) For 28 years I was the director of environmental enforcement. I was the guy doing their job and when Dale first came to me, I saw the compliance issues he had and I said "I'm only going to be involved with this with a couple of conditions. One of them is you have to put in safeguards, because based from my experience, safeguards prevent problems." They prevent cleanup problems and financial assurance problems down the line. (*unclear wording - Speaker referenced a list experts working on the project ... was more than at the Sawyer landfill.*) No liquids going in, no hazardous waste going in, no industrial waste going in. (*unclear wording - Comments on low radiation levels, requirements of 3-foot (longer?) liners than the ... (unclear wording).*) *Comments on requirements in controlling actually over a 100-year flood event.*

(Speaker started to use the microphone) We have three of the experts here, and I've really gotten to respect them. Steve Ike in engineering, Bob Yost, who knows as much about treatment and organics, and that's primarily what we're talking about here, bio-waste is primarily organics. And that's Max Scott, who is I believe is one of the top radiation people in the country. And even though the radiation is extraordinarily low, I believe Max said 5 inches, 6 inches today – two inches of normal soil has as much around here. But even though it's low, the regulators care about it, the state does and we care about it, which is why Max is working on that area, and Steve will be talking about some of the safeguards, but the big one to remember is no water, no liquids – that was the key thing when I got involved with this -- is no liquids. It's different than any other landfill and it's different than the problems than in Montana. Without liquids you don't get those problems with no hazardous waste, no industrial waste. Steve will talk briefly about some of the control structures, but if they are there, you take care of previous compliance problems because they can't mess up. They have to put the money into assurance. It can't spill, it can't flow. As far as waste control, we're checking that. If you take liquids, you don't have to worry about what you see and I've seen for 35 years in North Dakota which is stuff falling out of trucks. If you drive in and see the approaches as was mentioned earlier, well you don't have that if you don't have liquids. Steve will briefly talk about the safeguards within the landfill structure.

Speaker Steve Ike: *(started speaking away from microphone and pointing to board designs drawn by engineer – beginning comments not clear) (audience interruption by another individual, comment not clear)* This is a general design of the proposed facility coming off the county road, we've got an entrance station and this facility is the (compost treatment?) facility where all the composting will take place....with the proposed special waste landfill off to the north. An enlargement of the compost treatment facility, the design includes a berm around the entire facility to prevent water from both running on and running off the facility. On the inside, the path is sloped towards the center. Again, we've got a holding pond in the middle. The regulations call for a 25-year, 24-hour event and this particular pond is designed for 100-year rain, 24-hour event. It also includes a 2-foot freeboard if there are greater rains than that, plus another two feet of dike around the perimeter so it's well contained.

The site is located in the Pierre Shale formation, there's about 1500 feet of clay below the site with no known aquifers. This top cross-section shows the existing facility and impoundment. This shape is the proposed treatment facility. We've got the 2-foot berms on the perimeter slopes to the middle. The base for the treatment facility is a 3-foot thick clay liner, a 4-foot thick clay liner in the treatment pond, and also included, cut-off wall through any granular materials that are located onsite during construction.

This sheet shows some details on the windrows for the treatment process, again the 3-foot clay liner, cut-off wall, surface water run-on/runoff control. The special waste landfill at this point in time includes two cells. The next sheet shows the cross-section again, the cells will be excavated; the existing clay soils will be compacted by a liner once the waste is disposed in the cell, the final cover is a 5-foot or more cover designed in accordance with the cell circulation.

Run-on/runoff control facilities for the special waste landfill as well. I think Dale has gone above and beyond any of the rules and regulations which are trying to provide extra environmental controls for this entire process. (END)

Speaker Scott Radig: Okay thank you. Are there any other additional comments or information to be provided?

Speaker Theresa Brewer: I have one more question. I don't know if a lot of people know about Marmarth gumbo. I lived on the Missouri all my life and was 12 years old when the river flooded and the last two years again. The "Marmarth gumbo" is different than any other soil. It dissipates. You put a pipeline through it and it goes swoosh. There are other things to think about. You might say the clay is good, a good place to put stuff, but come look, I'll show you a pipeline that washed out.

Speaker Bob Yost: (*Tape skips...*) When you're coming into the site, we go to the composting process to remediate the hydrocarbons that are in the solids prior to impoundment in the waste cells. That's quite a bit different than impoundment of untreated waste into a waste cell. I think that's an important thing to understand in this whole process. And of course, what we've been trying to do is look at the science and the facts that we could ascertain through our due diligence in order to best recommend the processes to use.

I just wanted to make sure it was understood that waste comes in at a very restricted level of TPH and radiation content. It is treated, to make it almost soil-like. In fact, we've used this process for much greater oil-contaminated soils to create the very low level of TPH, and that was actually recommended for use on pipeline restoration, and that this is not going off the site. So having known that fact and after it's treated THEN it's impounded. So I just think it'll interest everyone to know exactly how the steps are before it gets into the cell. Thank you. (END)

Speaker Patty Perry: (Marmarth) I don't think that any of us dispute the fact that there needs to be something like this done. But I asked earlier this afternoon, I'm asking again, I want to know who is going to take the samples, how often is this going to be done? I want to know how this is going to be controlled. I didn't get much of an answer this afternoon. (END)

Speaker Jerry Jeffers: (Rhame) Approximately three years ago, almost to date the 20th of March, 2007, the Bowman County Planning and Zoning Commission met and after a fairly lengthy hearing, and after Dale had presented material to us about what was made by the Planning and Zoning Commission to approve application for Dale to go forward with this. At that point, Dale had to go forward to get the permits and that's the process that's been going on. If you've picked up this paper at all, you'd know this didn't start last week. This has been going on for a long time.

Now I've been a farmer and rancher all my life. I'm not old, I'm middle aged. Let's put it that way. I've made some mistakes and I'm here to stand before you to tell you I've done that. But I also hope that I've learned something from those mistakes. And I also know that in my business the new technology and so on that's been taking place is going to make me a much better farmer than what I've been. Now, when Dale was involved with this before, they did not do everything that they are going to do now; they did not put the liners in like they did and so on. That is stuff that Dale has learned by mistakes in the past and he knows this has got to be. Now Dale is not in this just to be a good guy to take the oil waste and put it in one place, which is a benefit in itself. I

have land that my family owns, that I know personally that when the liner was pulled out of the pit, there was a lot of stuff that went into the ground and it's still there I assume. What I'm saying is Dale is in this as a business. He wants to make money at this project. He can make money at this project. But he's going through every hoop to do everything he can not to screw it up because as I said about myself--farming and ranching—I've made some mistakes and it cost me money. If Dale makes this mistake in this process and the health department shuts him down, there's a financial assurance that this will be cleaned up. Dale has had to put that forward. So you don't have to worry about it being cleaned up, but who is going to worry about Dale. Dale is going to go broke and once Dale does that, Dale's not going to try this again.

Another thing to keep in mind is this is not the only one of these in North Dakota. This isn't a new thing, there's some in the northern part of the state being used successfully right now. They're not nearly as stringent on those as what Dale is being asked to do. So I think you need to keep in mind that this is a business and let's treat it as that. Thank you. (END)

Speaker Scott Radig: Any further comments? Anyone else?

Speaker Molly Lyson: (Marmarth) I just think it's a bad idea and don't know why we should tempt fate. People say nothing is going to ever happen and how do we know for sure, you know you hear all over the country, things like that happen. And they say there's no way it can. Most of the people that are here tonight that are for it are employees. People that live on the land are really against it. I think it's a bad idea. (END)

Unidentified speaker in audience made unclear comment.

Speaker Scott Radig: Is there anyone else that would like to make any comments or offer any more information?

Speaker Neil Buchholz: (Southwest of Rhame) I think proper remedies have to be in place so it doesn't cost Bowman County lots of money down the road. It might be 500 thousand today, it might be a million in five years, it might be ten million in 20 years. That's got to be addressed. Thank you. (END)

Speaker Scott Radig: Thank you.

Speaker Dale Leivestad: (Baker MT) I read this statement earlier and I'll submit this as a public comment (copy attached).

Speaker Scott Radig: And again, any further comments? Anyone else?

It is now 7:50 p.m. If no one else present is going to provide comment this hearing will be closed. The record will be open for additional written comments which are postmarked on or before March 15, 2010. All written comments should be mailed to:

Scott Radig, Director
North Dakota Department of Health

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918 East Divide Avenue, 3rd Floor
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At this point I will close the hearing on the proposed Petrocomp Solid Waste Permit. Thank you.